

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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STEPHANIE MITCHELL,

Case No. 2:18-cv-01501-GMN-GWF

Plaintiff,

ORDER

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

13 This matter is before the Court on Plaintiff's Application to Proceed *In Forma Pauperis*
14 (ECF No. 1), filed August 13, 2018.

BACKGROUND

16 Plaintiff alleges a claim against the Social Security Administration (SSA), challenging
17 the denial of social security disability benefits. Plaintiff alleges that at all times relevant to this
18 action she was disabled as defined by the Social Security Act. Plaintiff claims that the Social
19 Security Commissioner, initially and upon reconsideration, denied her requests for disability
20 insurance benefits and supplemental security income. Plaintiff states that she timely requested
21 review of the Administrative Law Judge's decision with the Appeals Council, which was denied
22 on June 12, 2018. *Complaint* (ECF No. 1-1), ¶ 5. Plaintiff now seeks judicial review of that
23 final agency decision.

DISCUSSION

I. Application to Proceed *In Forma Pauperis*

26 Plaintiff filed this instant action and attached a financial affidavit to her application and
27 complaint as required by 28 U.S.C. § 1915(a). Having reviewed Plaintiff's financial affidavit

1 pursuant to 28 U.S.C. § 1915, the Court finds that Plaintiff is unable to prepay the filing fee.
2 Therefore, Plaintiff's request to proceed *in forma pauperis* in federal court is granted.

3 **II. Complaint**

4 Plaintiff brings this suit against the SSA alleging she was wrongfully denied social security
5 disability benefits. Federal courts only have jurisdiction to conduct judicial review of the SSA's
6 final decisions. *See* 42 U.S.C. § 405(g); *Klemm v. Astrue*, 543 F. 3d 113, 1144 (9th Cir. 2008);
7 *see also Cilifano v. Sanders*, 430 U.S. 99, 107-09 (1977). Plaintiff appears to have fully
8 exhausted her administrative remedies with the SSA. The Court will therefore allow Plaintiff's
9 complaint to proceed as a petition for judicial review of a final agency decision. Accordingly,

10 **IT IS HEREBY ORDERED** that Plaintiff's Application to Proceed *In Forma Pauperis*
11 (ECF No. 1) is **granted**. Plaintiff shall not be required to pre-pay the full filing fee of four
12 hundred dollars (\$400.00).

13 **IT IS FURTHER ORDERED** that the Clerk of the Court shall file the Complaint (ECF
14 No. 1-2).

15 **IT IS FURTHER ORDERED** that the Clerk of the Court shall serve the Commissioner
16 of Social Security Administration by sending a copy of summons and Complaint by certified
17 mail to: (1) Office of the Regional Chief Counsel, Region IX, Social Security Administration,
18 160 Spear Street, Suite 899, San Francisco, California 94105, and (2) the Attorney General of the
19 United States, Department of Justice, 950 Pennsylvania Ave. NW, Washington DC 20530.

20 **IT IS FURTHER ORDERED** that the Clerk of the Court shall issue summons to the
21 United States Attorney for the District of Nevada, and deliver the summons and Complaint to the
22 U.S. Marshal for service.

23 **IT IS FURTHER ORDERED** that Defendants shall have **sixty (60)** days from the date
24 of service to file their answer or responsive pleading to Plaintiff's Complaint in this case.

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1 **IT IS FURTHER ORDERED** that henceforth, Plaintiff shall serve upon Defendant, or
2 their attorney if they have retained one, a copy of every pleading, motion, or other document
3 submitted for consideration by the court. Plaintiff shall include with the original paper submitted
4 for filing a certificate stating the date a true and correct copy of the document was mailed to
5 Defendant or their counsel. The Court may disregard any paper received by a district judge,
6 magistrate judge, or the Clerk which fails to include a certificate of service.

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Dated this 16th day of August, 2018.

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GEORGE FOLEY, JR.
UNITED STATES MAGISTRATE JUDGE

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